

***Ministerial Code of  
Conduct  
June 2012***



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# Ministerial Code of Conduct

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## MINISTERIAL CODE OF CONDUCT

Bermuda's Cabinet system operates in accordance with the Constitution of Bermuda within the framework of the conventions which have been observed by successive Governments over several years. From time to time there is a need to update guidance to take into account legislative changes and changed circumstances.

The Ministerial Code of Conduct, the set of rules outlining the responsibilities and proper practices for Ministers, was last updated and issued in 2002. While the principles of the Code are abiding and timeless, the detail has been amended to reflect, in particular, the Good Governance legislation. This revised Code also reflects a worldwide trend on the part of citizens to demand greater accountability and transparency from their Governments especially in the way in which the taxpayers' money is spent. Bermuda's citizens deserve the highest standards of probity and ethical behavior from their Ministers. It is in this spirit that this Code is now promulgated and published.

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## SECTION A

### **General Principles which apply to Cabinet Ministers**

Ministers are expected to behave according to the highest standards of constitutional and personal conduct in the performance of their duties. In particular, they must observe the following general principles of Ministerial conduct:

- (i) Ministers must uphold the principle of Collective Responsibility.
- (ii) The policy of Ministers must be consistent with the policy of Government as a whole. Every Minister is expected to support the Government's policy, and should resign if he finds himself unable to do so.
- (iii) As the political head of a Ministry, the Minister is responsible for all its acts and omissions, and must bear the consequences of any defect of administration or any aspect of policy which may be criticised in Parliament, whether personally responsible or not.
- (iv) Ministers have a duty to account for, and to be held accountable, for the policies, decisions and actions of their Departments.
- (v) It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent errors at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignations to the Premier.
- (vi) Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest. A determination of whether or not disclosure is in the public interest will be made in accordance with any relevant legislation and the principles of Public Access to Information.
- (vii) Similarly, Ministers should require Civil Servants who give evidence before Parliamentary Committees on their behalf and under their direction, to be as helpful as possible in providing accurate, truthful and comprehensive information in accordance with the duties and responsibilities of Civil Servants, as set out in the Civil Service Conditions of Employment and Code of Conduct.
- (viii) Ministers must ensure that no conflict of interest arises, or appears to arise, between their duties and their private interests.
- (ix) Ministers should not accept any gifts or offers of hospitality which might, or might reasonably appear to, compromise their judgment or place them under an improper obligation.

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- (x) Ministers in the House of Assembly must keep separate their roles as a Member of the House of Assembly and their roles as representatives of the constituencies which elected them.
- (xi) Ministers must not use government resources for party political purposes.
- (xii) Ministers must uphold the political impartiality of the Civil Service, and should not ask Civil Servants to act in any way which would bring them into conflict with the Civil Service Conditions of Employment and Code of Conduct., the Good Governance Act 2011, Financial Instructions/Regulations or any other legislation.
- (xiii) Ministers will be expected to disclose to the Secretary to the Cabinet, in strictest confidence, and in the Official Register of Members' Interests, their directorships of, and holdings in stocks or shares in, local companies or businesses. In any discussion at Cabinet where a Minister finds that there is or might be perceived to be a conflict between his personal interest and his responsibility as a member of Cabinet he should disclose that interest to the Premier, remove himself from the discussion and take no part in the Cabinet decision. The attention of Ministers is also drawn to the Good Governance Acts 2011 and 2012 which make it a criminal offence to attempt improperly to influence contract awards. The Good Governance Act 2012 also requires that a Minister must disclose to the Premier any interest, (whether legal, beneficial, fiduciary, family or otherwise) in any application or appeal that they have a duty to consider under any enactment. The Premier may then choose to arrange for another Minister to consider the application or appeal.
- (xiv) Ministers must vacate all official trade union posts. This recognition that the same person should not hold trade union office and Ministerial office simultaneously conforms to the general principle that it is improper for a Minister to retain any personal responsibility or interest in the control or direction of sectional activities which may conflict with his wider responsibilities to the community at large.
- (xv) No Minister should use official information which comes to him in his capacity as a Minister for his own private profit or for that of his friends and associates.
- (xvi) No Minister should place himself, or allow himself to be placed, in a position which will tempt him to use his official influence to support any scheme or to advance any contract in which he has an undisclosed private interest.
- (xvii) Ministers should not seek or accept any kind of favour from individuals who are in negotiation with, or seeking to enter into contractual or proprietary or pecuniary relations with the Government.
- (xviii) Over and above the provisions in (xvi) – (xvii) Ministers should not attempt to influence the awarding of a government contract regardless of whether or not the Minister has an interest in any of the persons or organizations bidding for the contract.
- (xix) Ministers should scrupulously avoid speculative investments in securities, as a result of which, by virtue of their official positions as Cabinet Ministers and their ability to obtain early, or confidential access to, information, they have, or may appear

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to have, an advantage over other people in anticipating market changes.

These notes are intended to provide guidance by listing the general principles and conventions which may apply to the conduct of the affairs of Ministers. They should be read against the background of the duty of Ministers to comply with the law, including international law and treaty obligations, and to uphold the administration of justice; the general obligations listed above, and within the context of protecting the integrity of public life. It will be for individual Ministers to judge how best to uphold the highest standards. They are responsible for justifying their conduct in Parliament, and they can only remain in office for as long as they retain the confidence of the Premier. The Premier is the ultimate judge of the standards of behavior expected of Ministers and the appropriate consequences of a breach in these standards.

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## SECTION B

### **Detailed Guidelines which apply to Cabinet Ministers**

#### **1 Cabinet Business**

**1.1** Cabinet business consists, in the main, of questions which significantly engage the Collective Responsibility of Government. Collective Responsibility involves major issues of policy, cross-Ministry initiatives and items of critical importance to the general public.

The Minister putting forward a Cabinet Memorandum is expected to lead the discussion on the topic. It is expected that the Minister be well briefed by his or her senior civil servants on the subject at hand and be able to answer questions raised by other Cabinet Ministers.

Cabinet Memoranda emanating out of a collaborative policy or other initiative between two or more Ministries must be drafted jointly between the relevant Ministries and approved and initialed by the relevant Ministers. Additionally, all matters which involve organisational or other staffing changes must be routed through the Secretary to the Cabinet and the Premier, as responsibility for the efficient and effective organisation and management of the civil service falls within their remit.

**1.2** Those matters which lie wholly within the responsibility of a single Minister and which do not significantly engage Collective Responsibility, as defined in paragraph 1.1, are normally brought to Cabinet or to a Cabinet Committee for information purposes.

There may be occasions, however, when such matters are discussed at Cabinet, or Cabinet Committee level to enable the Minister to hear the views of his colleagues. In borderline cases, a Minister is advised to seek collective consideration. Questions involving more than one Department should be examined interdepartmentally and by the Central Policy Unit before their submission to a Cabinet Committee so that the decisions required may be clearly stated.

#### **2 Cabinet Committees**

**2.1** The Cabinet can be supported by Cabinet Committees (both standing and ad hoc), which can serve the purposes of relieving the pressure on Cabinet itself by settling as much business as possible at a lower level, or failing that, by clarifying the issues being addressed and defining the main points of disagreement.

**2.2** Ministers should normally attend those meetings of Cabinet Committees of which they are members or to which they have been invited. Unless they make it possible for their colleagues to engage in direct discussions with them on issues which they consider to be important, Ministers cannot (except where their absences are attributable to factors which are beyond their control) expect the Premier to allow an



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appeal against an adverse decision taken in their absence.

## 3 Collective Responsibility

**3.1** The internal process through which a decision has been made should not be disclosed. **Decisions reached by Cabinet or Cabinet Committees are binding on all Members of the Government.** They are, however, announced and explained publicly as the decision of the Minister concerned. On occasion, it may be desirable to emphasise the importance of a particular decision by stating specifically that it is a decision which has been taken by the Bermuda Government. Such action, however, is the exception, rather than the rule.

**3.2** Collective Responsibility requires that Ministers should be able to express their views frankly in the expectation that they can argue freely in private while maintaining a united front when decisions have been reached. This in turn requires that the privacy and confidentiality of opinions expressed in Cabinet and Cabinet Committees should be maintained. Moreover, Cabinet and Cabinet Committee documents will often contain information which needs to be protected in the public interest. It is therefore essential that, subject to guidelines on the disclosure of information, Ministers must take the necessary steps to ensure that they and their staff preserve the privacy of Cabinet business and protect the security of Government documents.

**A Minister who for whatever reason feels unable to support a Cabinet decision will be expected to resign.**

## 4 Individual Responsibility

**4.1** Each Minister bears total responsibility for all subjects within his or her own Ministerial portfolio, subject only to the constraint of policies agreed in Cabinet. A Minister is required to introduce in Cabinet, Memoranda related to his or her Ministerial portfolio, represent his or her Ministry and the Government in Parliament, and be the public face of business concerning his or her Ministry.

**4.2** Ministers should exercise appropriate care in determining which matters should be brought before Cabinet. Ministers and their senior civil servants should ensure that only major policy matters are referred to Cabinet, and that routine or trivial subjects are dealt with outside of Cabinet.

**4.3** Matters which involve the introduction of legislation or amendments to legislation must always be brought before Cabinet.

**4.4** Ministers may also have the sole discretion to exercise certain powers under legislation pertaining to their Ministries. In these cases, judgment should be applied in deciding whether or not the exercise of such powers should be brought to the attention of Cabinet; issues of national importance are one such example.

## 5 Cabinet Documents

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**5.1** Ministers relinquishing office without a change of Government should hand over to their successors all those Cabinet documents required for the current Administration, and should ensure that all other Cabinet documentation in their possession is destroyed.

**5.2** In the event of a change of Government, the outgoing Premier issues special instructions about the disposition of the Cabinet Papers of the outgoing Administration.

**5.3** Some Ministers have thought it wise to make provision in their wills against the improper disposal of any official or Government documents which they might have retained in their possession by oversight.

### **6 The Attorney-General**

**6.1** The Attorney-General must be consulted in good time before the Government is committed to decisions involving legal considerations. It will normally be appropriate to consult the Attorney-General for advice on:

- (a) The potential domestic and international legal repercussions of any actions contemplated by Government;
- (b) The following areas about which a Departmental legal adviser is in doubt:
  - (i) The legality or constitutional propriety of legislation which Government proposes to introduce; or
  - (ii) The vires of proposed subordinate legislation; or
  - (iii) The legality of a proposed administrative action, particularly where that action might be subject to challenge in the courts by means of an application for judicial review.
- (c) Questions involving legal considerations which are likely to come before Cabinet;
- (d) A particular legal difficulty which may raise political aspects of policy;
- (e) Legal questions on which two or more Departments disagree and for the resolution of which they wish to seek the views of the Attorney-General's Chambers.

**6.2** By convention, written opinions of the Attorney-General, unlike other Ministerial papers, are generally made available to succeeding Administrations.

**6.3** When advice from the Attorney-General's Chambers is included in correspondence between Ministers, or in Papers for Cabinet or Cabinet Committee meetings, the conclusions may, if necessary, be summarised but, if this is done, the complete text of the advice should be attached.

**6.4** The fact and content of opinions or advice given by the Attorney-General's

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Chambers, either individually or collectively, must not be disclosed outside Government without the authorisation of the Attorney-General.

**6.5** Ministers occasionally become engaged in legal proceedings which relate primarily to their personal capacities, but also, in some instances, to circumstances which may have implications for them in their official capacities as Government Ministers. Defamation is an example of such an area where the proceedings will invariably raise issues relating to a Minister's official as well as his private status. In all such cases, the Ministers concerned should consult with the Attorney-General before consulting their own lawyers. This course of action will allow the Attorney-General to express a view on the handling of a particular case insofar as the public interest is concerned or, if necessary, to take charge of the proceedings from the outset.

**6.6** In criminal proceedings, the Director of Public Prosecutions acts wholly independently of the Government. In civil proceedings, a distinction is to be drawn between those proceedings in which the Attorney-General is involved in a representative capacity on behalf of Government, and the actions undertaken by the Attorney-General on behalf of the general community to enforce the law as an end in itself.

### **7 Parliamentary Statements and other Government Announcements**

**7.1** When Parliament is in session, Ministers will want to bear in mind the desire of Parliament that the most important announcements of Government policy should, in the first instance, be made in Parliament. Ministers are required, wherever possible, to give their Cabinet colleagues the opportunity to comment on the content and timing of all important Government announcements, whether expressed in the form of a written answer or as an oral Statement in Parliament, in a White Paper or through a press conference. Whenever possible, Ministerial colleagues should be shown the draft announcement in advance of its being released.

Even when Government announcements are not of major importance, their timing may require careful thought in order to avoid clashes with other Government publications, statements or announcements or with planned Parliamentary business.

**7.2** Careful consideration should be given, in the case of important or extremely sensitive issues, to the desirability of making qualifying Ministerial Statements in response to issues raised in Written Parliamentary Questions. Answers to Parliamentary Questions should be accompanied by background notes which identify likely focus points and/or points of attack in Supplementary Questions and which suggest how these points can be addressed.

**7.3** In the case of answers to Parliamentary Questions, particular care must be taken to avoid making a press announcement before the relevant answer has been delivered to the Member of Parliament who tabled the Question.

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**7.4** Ministers should not give any undertakings, either inside or outside of the Legislature, that an oral statement will be made in Parliament on any subject at a specific time or within a certain period of time without a decision first being made on the proposed timing and the terms of such statements and without that information subsequently being sent to the House Leader and the Government Whip by the Secretary to the Cabinet.

**7.5** Ministers must be conscious of the pressures of other Parliamentary business when making decisions on the timing of Ministerial Statements.

**7.6** Copies of the final versions of Ministerial Statements should be sent to the Secretary to the Cabinet, the House Leader, the Government Whip and the Department of Communication and Information.

**7.7** A copy of the final text of a Ministerial Statement should in all cases be sent in advance to the Speaker of the House of Assembly or, where applicable, to the President of the Senate.

**7.8** The Government Leader in the Senate should be informed of a forthcoming Ministerial Statement in the House of Assembly and should also be consulted about the desirability of repeating it in the Senate.

**7.9** Every effort should be made to avoid leaving the reading of important Ministerial Statements until the last day of meeting before Parliament goes into recess.

## **8 Junior Ministers**

**8.1** Junior Ministers are not members of Government, and should be careful to avoid being spoken of as such. They are, first and foremost, Members of the Legislature, and, from that perspective, should therefore be afforded as much liberty of action as is possible. However, their close and confidential association with Ministers imposes certain obligations on them. Official information given to them should generally be limited to what is necessary in the discharge of their Parliamentary and political duties. This need not preclude their being brought into Departmental discussions or conferences where appropriate, but they should not have access to secret establishments, or information graded secret or above, except on the personal authority of the Premier. While, as Members of the Legislature, they need not adhere to the rules on private interests which apply to Ministers, they should, as a general rule, seek to avoid a real or perceived conflict of interest between their roles as Junior Ministers and their private interests.

**8.2** Like other Government Members of the Legislature, Junior Ministers are expected to support the Government in all important decisions. However, their special position in relation to Government imposes an additional obligation, which means that no Junior Minister who votes against the Government may retain his position. Junior Ministers should not make Statements or put Parliamentary Questions on matters affecting the Ministry with which they are connected. They are not precluded from serving on Select Committees of the Legislature, but they should

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not do so in the case of inquiries being made into their own Ministers' Departments and they should avoid associating themselves with recommendations which are embarrassing to, or critical of, the Government. They should also exercise discretion in any speeches or media broadcasts which they may make outside the Legislature, taking care not to make statements which appear to be presented in an official or semi-official capacity. They should also bear in mind at the same time that, however careful they may be to make it clear that they are only speaking as Private Members of the Legislature, they are nevertheless liable to be regarded as speaking with some of the authority which is attached to a Member of Government. Generally, they must act with a sense of responsibility and with discretion, and they must not associate themselves with particular groups who are advocating specific policies and/or courses of action.

**8.3** Junior Ministers making official visits may receive the normal Civil Service travelling and subsistence allowances in respect of travel on official (or Departmental business), as would be the case with other Members of Parliament undertaking work on behalf of Government Departments. It is for the Minister concerned to decide whether or not the Junior Minister, when accompanying the Minister, is engaged on business relating to his Ministry. Occasionally, it may be useful for a Junior Minister to accompany a Minister on an official visit abroad, but no such arrangements should be made without the prior written approval of the Premier.

## **9 Special Advisers and Consultants**

**9.1** The employment of Special Advisers and Consultants adds a political dimension to the advice available to Ministers, while also providing Ministers with the direct advice of distinguished 'experts' in their professional field. In this way, the political impartiality of the Permanent Civil Service is reinforced by distinguishing the source of political advice and support. Cabinet Ministers may each appoint up to two Special Advisers and/or Consultants ('political' or 'expert'). All such appointments require the prior written approval of the Premier, and no commitments to make such appointments should be entered into in the absence of such approval.

## **10 Ministers and Civil Servants**

**10.1** Ministers have a duty to give fair consideration and due weight to informed and impartial advice from Civil Servants in reaching policy decisions. They also have a duty to uphold the impartiality and apolitical nature of the Civil Service, and should not ask Civil Servants to act in any way which would bring them into conflict with the Constitution, the Public Service Commission Regulations and the Civil Service Conditions of Employment and Code of Conduct, the Government of Bermuda's Financial Instructions, the Public Treasury (Administration and Payments) Act 1969 and recent Good Governance legislation including the Procurement Code of Practice.

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Ministers should ensure that Civil Servants are not asked to engage in activities likely to call into question their political impartiality or give rise to criticism that individuals paid from public funds are being used for Party political purposes.

**10.2** Permanent Secretaries and Heads of Departments serve as the Accounting Officers for their Ministries/Departments. The essence of this role is a personal responsibility for the propriety and regularity of the public finances for which he or she is responsible; for maintaining proper accounts; for the avoidance of waste and extravagance; and for the efficient and effective use of resources. Accounting Officers answer personally to the Public Accounts Committee, a Standing Committee of the Legislature, within the framework of Ministerial accountability to Parliament for the policies, actions and conduct of their Departments.

**10.3** Accounting Officers have a particular responsibility to see that appropriate advice is given to Ministers on all matters of financial propriety and regularity. If a Minister in charge of a Department is contemplating a course of action which involves a transaction which the Accounting Officer considers would breach the requirements of propriety and regularity, represents poor value for money, involves a potential breach of Financial Instructions or involves expenditure which has not been voted in the Appropriation Act he will inform the Minister in writing of his objection to the proposal and the reasons for that objection. He will also copy the correspondence to the Financial Secretary, the Accountant General and the Internal Auditor.

If the Minister decides nonetheless to proceed, the Accounting Officer is obliged to comply with the instruction - provided in doing so the Public Treasury (Administration and Payments Act) 1969 is not contravened - but will request a written instruction from the Minister to take the action in question and will send the relevant documentation to the Auditor-General. A similar procedure will apply where the Accounting Officer has concerns about whether the proposed course of action offers value for money. This notification procedure does not justify the Accounting Officer refusing to comply with a Ministerial instruction; it merely enables the Public Accounts Committee to see that the Accounting Officer does not bear personal responsibility for the actions concerned and protects him or her from surcharge.

## **11 Civil Servants and Political Parties**

**11.1** Ministers should not issue, and Civil Servants should not accept, invitations to conferences convened by, or under the aegis of, party political organisations. This situation is, of course, different when Ministers require officials to be in attendance at party political events in order to enable the Minister to carry out the Ministry's business.

**11.2** If a Minister wishes to have a brief for a party political occasion to explain the Ministry's policies or actions, there is no reason why this should not be provided by the Ministry concerned.

## **12 Ministers' Constituency and Party Interests**

**12.1** It is wrong in principle for Ministers to use for party or constituency work any facilities which are provided at Government expense to enable them to carry out their official duties. Ministers should therefore have their constituency work discharged at their own expense, just as they would if they were Private Members of Parliament.

**12.2** Where Ministers have to take decisions within their Ministry which might have an impact on their own constituencies, they should, of course, take particular care to avoid any possible conflict of interest or perception that Ministry policies or funding disproportionately benefit their own constituencies.

## **13 Deputations**

**13.1** Ministers are free to make their views about constituency matters known to the responsible Minister by correspondence, leading deputations or by personal interview; provided that they make it clear that they are acting as their constituents' representatives and not as Ministers. Particular problems sometimes arise over views expressed on planning applications and in certain other cases involving the exercise of discretion by Ministers (e.g. on school closures). In these instances, representations intended to be taken into account in reaching decisions may have to be made available to other parties and thus may receive publicity.

Ministers are advised to take particular care in such cases that they represent the views of their constituents, rather than express their personal views. However, when they find it unavoidable to express a personal view, they should ensure that their comments are made available to the other parties, that they avoid criticism of Government policies, confine themselves to comments which could reasonably be made by those who are not Ministers and make it clear that the views that they are putting forward are ones which are being presented in their capacity as constituency Members of Parliament, not as Cabinet Ministers.

Once a Government decision has been announced, it should be accepted without question or criticism. It is important, in expressing their views that Ministers do so in a way that does not create difficulties for the Minister who has to make the decision and that they bear in mind Government's Collective Responsibility for the outcome of that decision. Ministers should also take into account any potential implications which their comments could have on their own Ministerial responsibilities.

## **14 Ministers' Visits Overseas**

**14.1** Except where there are compelling reasons involving the discharge of Government business, Ministers should arrange overseas visits to occur when Parliament is in recess or, where appropriate, on weekends. In particular, overseas visits which are primarily of a fact-finding nature should be reserved exclusively for Parliamentary recesses. Ministers should take note of the principle that Cabinet

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meetings take precedence over any other business. As sufficient Ministers must be available throughout the year to ensure the effective discharge of Government business, it may become necessary at times to place restrictions on their overseas travel during Parliamentary recesses.

**14.2** Any Minister who wishes to be absent from Bermuda for any reason should seek the Premier's prior written approval. This must be done before any commitment, even of an informal nature, is made. Copies of the letter requesting official leave of absence should be sent to the Secretary to the Cabinet and the Government Whip, whose views will be taken into account before a decision is reached.

**14.3** Ministers should make it their personal responsibility to approve the size and composition of any Ministerial delegations for which their Ministries are responsible. Each Minister in charge of a Department should ensure that his or her Ministry prepares and maintains a comprehensive and central record of his travels overseas, such record to contain details of the numbers and costs of all Ministerial delegations whose travel has been at public expense. This record should be maintained in such a way that an up-to-date list of visits and the costs of those visits can be made available by the Ministry at short notice in the event of their Ministers being asked to account for any travel undertaken by their Ministry. Ministers should take the lead in paring down the size of groups travelling overseas on official business by keeping their own Ministerial delegations as small as possible.

**14.4** When a Minister travels overseas to attend an official function at the invitation of a Foreign Government, and where the invitation has also been extended to the spouse of the Minister, that spouse may travel at public expense at the discretion of the Premier.

### **15 Travelling Expenses of Special Advisers**

**15.1** If necessary, a Minister may take a Special Adviser on an overseas visit at the public expense, but when an unpaid Adviser, whose salary is not met from public funds, accompanies a Minister on Government business, any additional expenditure which may be incurred should not come from public funds. The written approval of the Premier should be obtained before a Special Adviser accompanies a Minister overseas.

### **16 Expenses on Travel and Hospitality**

**16.1** Ministers must always make efficient and cost-effective travel arrangements, including those for transport. When Ministers travel on official business, their travel expenses should normally be borne by their Departmental vote. When any expenses are not met in this way, Ministers will wish to ensure that no undue obligation is involved.

Accepting offers of free travel can be misinterpreted. However an offer to a Minister on official business to accompany a representative of a host foreign country may be acceptable, provided it creates no undue obligation, and if it offers a saving of official time or provides



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an opportunity to conduct official business.

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Offers of travel from other organisations should not normally be accepted, except where this is provided as an integral part of a tour of inspection. In exceptional cases, such an offer may be accepted if this would represent a saving of official time and if there is no risk of an undue obligation being created. In these cases, if the journey is of any significant distance, the organisation concerned should be reimbursed from the public purse to the value of a scheduled business class ticket. In any cases of doubt, the Secretary to the Cabinet should be consulted.

In the event of a Minister accepting hospitality on a scale, or from a source, which might reasonably be thought to influence Ministerial action, it should be declared in the Register of Members' Interests.

### **17 Acceptance of Gifts and Services**

**17.1** No Minister or public servant should accept gifts, hospitality or services from anyone which would, or might appear to, place him or her under any obligation.

**17.2** The decisions whether to accept gifts or services are primarily matters which must be left to the good sense of Ministers. However, any Minister in doubt or experiencing difficulty over this issue should seek the Secretary to the Cabinet's guidance. The rules which apply to the acceptance of gifts from donors with whom the Minister has official dealings locally also apply to gifts from overseas donors. These rules are as follows:

- (a) Receipt of gifts should, in all cases, be reported to the Secretary to the Cabinet;
- (b) Gifts of lesser value (currently, a value of up to \$250 will apply) may be retained by the recipient;
- (c) Gifts of a higher value should be handed over to the Cabinet Office for safekeeping, except that:
  - (i) if the recipient wishes to reciprocate with, and pay for, a gift of equivalent value, the gift received may be retained;
  - (ii) the recipient may purchase the gift at its cash value (reduced by \$250);
  - (iii) otherwise, if the Department judges that it would be of interest, the gift may be displayed or used in that Department;
  - (iv) if the disposal of the gift would cause offence or if it might be inappropriate for the recipient to use or display the gift on some future occasion as a mark of politeness, then the gift should be retained in the Department for this purpose for a period of up to five years;

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- (d) Gifts received while overseas and valued in excess of the normal travellers' duty-exemption allowances should be declared at importation to Customs, who will advise on any duty or tax liability. In general, if a Minister wishes to retain a gift, he or she will be liable for any tax or duty it may incur.

## **18 Relations with other Governments**

**18.1** Ministers should be mindful of the importance of sending to the Premier written details of the salient points of any discussions which they may have with representatives of foreign or Commonwealth countries. This requirement applies to informal discussions, as well as those held in the course of carrying out official business.

## **19 Visits by Commonwealth and Foreign Visitors**

**19.1** Ministers should inform the Premier when extending invitations to Ministers of other Governments to pay official visits to Bermuda. In the event of any doubts or difficulties related to these official visits, they should consult the Premier. Government Departments should also inform the Premier about all visits, of which they become aware, whether private or official, by Ministers of other Governments or by any other person enjoying an equivalent status.

**19.2** Ministers should not overlook the possible foreign policy implications of such day-to-day matters as offering hospitality to prominent political figures visiting Bermuda, of accepting social commitments of a similar kind and of giving public support for petitions, open letters, etc. i.e. those actions which may be construed as being significant by foreign observers. In any case of doubt, the Minister should consult the Premier before making firm commitments. The Premier should also be consulted whenever a Minister intends to make a speech touching on matters affecting foreign affairs.

## **20 Entertainment Overseas**

**20.1** If it is thought that a Minister may need to provide entertainment while overseas, the advice of Cabinet Office should be sought both on the desirability and the content of such entertainment.

## **21 Ministers Recalled from Abroad**

**21.1** If a Minister is overseas with permission and is called home for Ministerial or Parliamentary reasons - including the need to vote - the cost of the resultant extra journey to and from Bermuda may be met by public funds.

## **22 Ministers' Visits within Bermuda**

**22.1** It is customary for a Minister, when preparing to make an official visit within Bermuda, to inform the Members of Parliament representing the constituencies

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included in his itinerary. Special care should be taken not to overlook this courtesy. Ministers cannot, of course, invite Members to accompany them to functions organised by a third party, but adequate notice to the relevant constituency Members of Parliament will assist them in ensuring that they have an opportunity to request invitations from local organisers to attend functions of an official nature, should they wish to attend. It will also enable them to make suggestions to the Minister about the inclusion in the itinerary of places which it would be helpful to visit.

## **23 Ministers and the Presentation of Policy**

**23.1** Official facilities financed out of public funds can be used for Government publicity and advertising, but may not be used for the dissemination of material which is essentially party political. The Conventions governing the work of the Department of Communication and Information are set out in a guidance note issued simultaneously with the Code and placed in the Library of the House of Assembly.

## **24 Co-ordination of Government Policy**

**24.1** In order to ensure the efficient presentation of Government policy, the Department of Communication and Information should be made aware in good time of all planned major speeches, interviews and media appearances, both print and broadcast. The policy content of all major speeches, press releases and new policy initiatives should be cleared in good time with the Cabinet Office. The timing and the form of all announcements should receive a similar clearance, and each Ministry should keep an ongoing record of media contacts by both Ministers and Government officials.

## **25 Press Conferences**

**25.1** In order to explain policies or to announce new policies, a Minister may decide to hold a press conference. This will be convened by the Department of Communication and Information. All press conferences are on the record and are consequently openly accessible to any representative of the local and overseas media. Ministers should be properly briefed in order to respond, if necessary, during the question and answer period normally held at the end of a press conference. At the conclusion of press conferences, it is often the practice of Ministers to give separate radio and TV interviews in order to secure the most effective presentation of their views to the public.

## **26 Speeches**

**26.1** Ministers cannot speak on public affairs for themselves alone. In all cases, other than those described in paragraph 13.1, they speak as Ministers, and the principle of Collective Responsibility applies. They should make sure that their statements are consistent with collective Government policy and should not anticipate decisions which have not yet been made public. Ministers are required to exercise extreme care when referring to subjects which are the responsibility of other Ministers. Any Minister who intends to make a speech which deals with, or makes observations which bear upon, matters which fall within another Minister's portfolio

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should consult with that Minister before delivering his speech. The Minister should advise the Cabinet of any invitations to make a speech in the public domain.

**26.2** Ministers should always be consulted before any mention is made of matters which either affect the conduct of the Government as a whole or are of a constitutional character. Cabinet Office should always be consulted before any mention is made of matters affecting foreign and Commonwealth Affairs, relations with foreign and Commonwealth countries and the political aspects of the affairs of Overseas Territories. Ministers wishing to refer in speeches or any other public statements to economic policy or to proposals involving additional Government expenditure or revenue costs should in all cases consult with the Minister of Finance.

**26.3** Ministers should use official machinery for distributing texts of Ministerial speeches only when such speeches are made on official occasions and deal with Government matters, as distinct from Party policies. Speeches made within a party political context should be distributed through the Party machinery.

**26.4** Ministers should not accept payments for speeches of an official nature or which directly draw on their responsibilities and experience as Ministers, either on their own or their Department's account, or with a view to donating the fee to charity.

**26.5** A Minister who is invited to appear on radio or television in a private, as opposed to a Ministerial capacity, will wish to consider if such an appearance will have a bearing on another Ministry's responsibility, in which case he should clear the matter with the Ministerial colleague concerned before accepting the invitation. Ministers invited to take part in programmes to be broadcast outside Bermuda should consult with the Premier and any other Minister who may be concerned with the subject of the broadcast. Ministers will use their discretion as to whether the nature of any such invitations at home or abroad is such that they should consult with the Premier before agreeing to participate.

### **27 Contributions to Press Articles, Books, Journals, Newspapers**

**27.1** Ministers may occasionally contribute to books, journals, newspapers or other publications (including local publications within their constituencies) for the purpose of supplementing other means of informing the public about the work of their Departments, provided that such publications will not be at variance with their obligations to Parliament and their duty to observe the principle of Collective Responsibility. Any Minister wishing to practise regular journalism, including the contribution of weekly or fortnightly articles to local newspapers, must secure the prior approval of the Premier. In cases of doubt, and in all cases where a Minister is contemplating the contribution of an article which reaches beyond the strict confines of his areas of responsibility, the Premier should be consulted before work has started on the article, and, in any case, before any commitment to publish is entered into. In all cases where an article contains material which falls within the responsibility of another Minister, that Minister must be consulted.

## **28 Party and other Publications**

**28.1** Ministers are sometimes asked to give interviews to historians or to other individuals engaged in academic research or in market opinion surveys, or to fill in questionnaires at the request of such people or organisations. Ministers should bear in mind that their views may be reported in a manner incompatible with their responsibilities and duties as Members of the Government. Careful consideration should therefore be given to such invitations before they are accepted. In cases of doubt, the Secretary to the Cabinet should be consulted.

## **29 Public Appointments**

**29.1** When they assume office, Ministers should relinquish any other public appointments which they may hold. Where it is proposed that such an appointment should be retained, the Secretary to the Cabinet must be consulted.

## **30 Non-Public Bodies**

**30.1** Ministers should take care to ensure that they do not become associated with non-public organisations whose objectives may in any degree be at variance with Government policy and thus give rise to conflicts of interest.

## **31 Trade Unions**

**31.1** There is, of course, no objection to a Minister holding trade union membership, but care must be taken to avoid any actual or perceived conflict of interest. Accordingly, Ministers should arrange their affairs so as to avoid any suggestion that a union of which they are a member has any undue influence. They should take no active part in the conduct of union affairs, should relinquish any office they may hold in a union and should receive no remuneration from a union (a nominal payment purely for the purpose of protecting a Minister's future pension rights is, however, acceptable).

## **32 Conflicts of Interest**

**32.1** It is vital to the reputation of the Government and to the Islands more widely that Ministers should be scrupulous in avoiding any conflict of interest, real or perceived, between their private affairs and their public duties as Ministers. While it would be impractical to expect Ministers to renounce their business or other interests on appointment to Government, it is expected that any potential conflict of interest – legal, beneficial, fiduciary, involving family, friends, close political or business associates or otherwise – will be disclosed and dealt with appropriately before any substantive decisions are taken in the matter.

**32.2** Ministers should err on the side of caution in deciding whether a matter constitutes a conflict of interest. In the first instance they should seek the guidance of the Permanent Secretary who will consult the Secretary to the

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Cabinet if necessary who may in turn consult the Premier.

**32.3** Ultimately the determination of whether a matter does constitute a conflict of interest – and the actions that need to be taken to avoid the conflict - is a matter of judgment. However, the circumstances of the matter and the reasons for the decision should be fully documented and retained safely.

**32.4** Notwithstanding the above there are special circumstances to be considered where a Minister is exercising his statutory duty to determine appeals. These circumstances are dealt with in the Good Governance Act 2011.

### **ANNEX 1:**

#### **USEFUL REFERENCES**

**Standing Orders for the House of Assembly**

**Code of Conduct and Conditions of Employment for Civil Servants**

**Good Governance Act 2011**

**Pro forma letter to departing Ministers**